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Attorney for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

<p>JOHN ROE and JANE DOE,</p> <p>Plaintiffs,</p> <p>-vs-</p> <p>KRISTI NOEM, in her official capacity as Secretary of Homeland Security; the DEPARTMENT OF HOMELAND SECURITY; and TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement,</p> <p>Defendants.</p>	<p>CV 25-40-BU-DLC</p> <p>Hon. Judge Dana Christiansen</p> <p><u>PLAINTIFFS' NOTICE TO THE</u> <u>COURT Re:</u> <u>EFFORTS TO ACCOMPLISH</u> <u>SERVICE</u></p>
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Pursuant to this Court's Order (Doc. 9) directing Plaintiffs to provide information related to their efforts to notify and/or serve Defendants with their Complaint (Doc. 1), Motion for Temporary Restraining Order (Doc. 2) and related documents (Docs. 3 - 6.3), Plaintiffs provide the following information:

- 1) On Sunday, April 13, 2025 at 6:45pm, counsel for Plaintiffs sent an email to the following individuals who, on information and belief, are attorneys in the United States Attorney's Office for the District of Montana:
 - a. Kurt Alme (kurt.alme@usdoj.gov);
 - b. Victoria Francis (victoria.francis@usdoj.gov);
 - c. Brendan McCarthy (brendan.mccarthy@usdoj.gov).

Declaration of Alex Rate, ¶ 5(a), Exhibit B.

- 2) The email states: "Counsel - tomorrow morning we will be filing a lawsuit on behalf of two students at MSU Bozeman who had their F-1 visas revoked and their status changed in the SEVIS system. I am attaching the papers in this matter that will be filed in the morning. Please contact me if you have any questions." *Id.*
- 3) The email included nine attachments, including Docs. 1 – 6.3 (non-conformed copies). *Id.*

- 4) On Monday, April 14, 2025 at 5:57pm, counsel for Plaintiffs received an email from Mark Smith, Assistant U.S. Attorney, Civil Division Chief, U.S. Attorney's Office – District of Montana. *Id.* ¶ 5(b), Exhibit B.
- 5) The email copied John Newman and Shelly Cook, both of whom have email addresses associated with the U.S. Department of Justice. *Id.*
- 6) The email states: “Hi Alex. We are preparing a response to your TRO motion & brief in the referenced litigation, which we hope to file soon. Those efforts – including looking into SEVIS actions and F1 statuses – are obviously impeded by the anonymity of your clients. Please provide us with their names. We will maintain the confidentiality of the information. Thanks.” *Id.*
- 7) On Tuesday, April 15, 2025 at 9:30am, counsel for Plaintiffs responded to Mr. Smith. The email states: “Hi Mark - I'm out sick today but am trying to keep up with emails. I would think - given the small number of revocations in Montana as well as the identifying characteristics in our complaint - that your clients would have access to the identities of the plaintiffs. Is that not the case? In any event, let's get a protective order in place and then we can provide you with the names. I've got a couple examples from recent state court cases that can be adapted unless DOJ has a preferred template. Thanks.” *Id.* ¶ 5(c), Exhibit C.

8) Meanwhile, counsel for Plaintiffs is diligently working towards perfecting formal service of process of all documents via a process server. *Id.* ¶ 6.

Based on email correspondence between counsel for Plaintiffs and attorneys in United States Attorney's Office for the District of Montana, Defendants are actively aware of this lawsuit and are preparing a response to Plaintiffs Motion. "The sufficiency of written and actual notice is a matter for the trial court's discretion." *Document Operations, L.L.C. v. AOS Legal Techs., Inc.*, 2021 WL 3729333, at *2 (5th Cir. 2021).

Accordingly, Plaintiffs request that this Court exercise its discretion and find that Defendants are on notice for purposes of issuing a temporary restraining and/or preliminary injunction.

Respectfully submitted this 15th day of April, 2025.

s/Alex Rate

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